

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**In re: CIRCUIT CITY STORES, INC., et al.,
Debtors.**

**Case No. 08-35653-KRH
Chapter 11
(Jointly Administered)**

**ALFRED H. SIEGEL, Trustee of the
Circuit City Stores, Inc. Liquidating Trust,**

Plaintiff,

v.

Adv. Pro. No. 19-03091-KRH

UNITED STATES TRUSTEE PROGRAM, et al.,

Defendants.

ORDER

On December 15, 2022, this Court denied *Defendants' Motion to Dismiss and Memorandum in Support* [ECF No. 45] by an *Order* [ECF No. 65] (the "Order") and accompanying *Memorandum Opinion* [ECF No. 64]. The Order determined that Alfred H. Siegel, Trustee of the Circuit City Stores, Inc. Liquidating Trust (the "Trustee") is entitled to a refund in the amount of the portion of the quarterly U.S. Trustee fees paid that exceeded the amount the Plaintiff would have had to pay in a bankruptcy administrator district, inclusive of the first three quarters of calendar year 2018 (the "Unconstitutional Overpayment"). The Order further set a continued pre-trial conference to set a trial, as the Court had not issued a judgment concerning the precise amount of the Unconstitutional Overpayment.

On December 26, 2022, the Defendants¹ filed a *Notice of Appeal and Statement of Election* [ECF No. 68] (the “Notice of Appeal”), seeking to appeal the Order² without the leave of Court required by Rule 8004(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Notice of Appeal commenced Civil Action Number 3:23-cv-00001-MHL in the United States District Court for the Eastern District of Virginia. On February 15, 2023, the District Court transmitted a *Certification to Court of Appeals by All Parties* [Case No. 3:3-cv-00001-MHL, ECF No. 6] to the United States Court of Appeals for the Fourth Circuit.

On February 11, 2023, the parties filed a *Stipulation* [ECF No. 82] (the “Stipulation”) agreeing that the amount of the Unconstitutional Overpayment is \$756,844.66. Based on the Stipulation, contemporaneously herewith, the Court entered judgment in favor of the Trustee in the stipulated amount of \$756,844.66 (the “Judgment”). The Judgment therefore fully and finally resolves this Adversary Proceeding. In consideration whereof, it is therefore

ORDERED that the Pre-Trial Conference is **CANCELLED**.

Dated: February 17, 2023

/s/ Kevin R. Huennekens

UNITED STATES BANKRUPTCY JUDGE

Entered on Docket: February 17, 2023

Copies to:

Kathryn R. Montgomery
Office of the United States Trustee
701 East Broad Street, Ste. 4303
Richmond, VA 23219

¹ “Defendants” shall refer to collectively the United States Trustee Program, Ramona D. Elliott, Acting Director, and John P. Fitzgerald, III, Acting United States Trustee for Region 4.

² No party has sought a stay of this adversary proceeding pending resolution of the appellate process pursuant to Bankruptcy Rule 8007(a)(1).

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